IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 473 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DILIPKUMAR UMEDDAS PATEL
Versus
BHAVNABEN DILIPKUMAR PATEL

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Appearance :
MR BHARAT JANI for Applicant.
MR JC VYAS for Opponent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/03/2006

ORAL JUDGMENT

By filing this application, the applicant, who is original opponent of H.M.P. No.12/1998 has challenged an interlocutory order passed by learned Civil Judge, Ahmedabad (Rural) awarding Rs.1,500/- by way of

interim maintenance in favour of wife. The learned trial Judge has also directed to pay Rs.3,000/- towards cost to the wife for the purpose of defending the litigation.

The respondent herein (wife) has preferred H.M.P.No.12/1998 for restitution of conjugal rights. In the aforesaid petition an application at Exh.12 was given by wife for interim maintenance on the ground that she is not doing anything and it will not be possible for her to survive in these hard days without maintenance. It is alleged by her that her husband acted in a high handed manner by deserting her from matrimonial house and by snatching away the custody of her minor children – Hardik and Rushi. It is also her case that husband is a teacher and he is earning Rs.15,000/- per month. In that view of the matter, she has prayed for Rs.6,000/- by way of monthly maintenance.

Learned trial Judge, however, took a very conservative view of the matter by granting Rs.1500/- per month in favour of the wife. The husband was not even satisfied by that order and, therefore, he has filed present revision application for further reduction of the amount of interim maintenance.

I have heard the learned advocates of both the sides and I have also gone through the impugned order. It is required to be noted that by the impugned order, learned Judge has awarded interim maintenance at the rate of Rs.1500/- per month. In my view, the learned Judge has taken a very conservative view of the matter.

Aforesaid order, in my view, is not required to be interfered with

by this Court in its limited jurisdiction under Section 115 of Civil Procedure Code. It cannot be said that any error of jurisdiction is committed by the learned trial Judge. In that view of the matter, this Civil Revision Application is rejected. Rule is discharged with no order as to costs. Interim relief granted earlier is vacated.

At the time of admitting this matter, this Court had granted interim relief in favour of the applicant – husband by which he was permitted to pay Rs.1,000/- per month towards interim maintenance. However, in view of this order, the applicant shall comply with the order of the trial Court by depositing remaining amount within a period of two months from today.

(P.B.MAJMUDAR, J.)

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